

**CITY OF LODI  
INFORMAL INFORMATIONAL MEETING  
"SHIRTSLEEVE" SESSION  
CARNEGIE FORUM, 305 WEST PINE STREET  
TUESDAY, MARCH 21, 2006**

An Informal Informational Meeting ("Shirtsleeve" Session) of the Lodi City Council was held Tuesday, March 21, 2006, commencing at 7:00 a.m.

**A. ROLL CALL**

Present: Council Members – Beckman, Hansen, Johnson, and Mounce  
Absent: Council Members – Mayor Hitchcock  
Also Present: City Manager King, City Attorney Schwabauer, and Deputy City Clerk Taylor

**B. TOPIC(S)**

**B-1 "Preview of proposed new Code Enforcement ordinance"**

Community Development Director, Randy Hatch, presented an outline of the proposed Code Enforcement program (filed). He shared that the overall Code Enforcement program has three main components: Council priorities with regard to reactive and proactive measures, ordinance revisions to provide the tools to efficiently and expeditiously address code enforcement violations, and the modification and clarification of language guidelines to specifically address and resolve code violations.

Mr. Hatch outlined that current tools available to deal with Code Enforcement issues allow for Code Enforcement staff to review and verify a violation, send a courtesy notice stating the issue, and request voluntary compliance with the notice. He stated that approximately 70% to 80% of all code violations are resolved through voluntary compliance by the citizen and that, while most citizens are aware of the disorder or problem, they did not know it was a violation prior to the courtesy notice. If compliance is not achieved, a Notice of Violation is issued for zoning or nuisance situations, or a Notice of Order is issued for housing or dangerous conditions per the building code. Fees for non-compliance may be imposed and have the potential to be poorly received and even ignored because language regarding the implementation and collection of fees is unclear. Currently, fees must be collected using the court system to process these infractions and misdemeanors; however, this process is considered cumbersome for the court system and excessive for the caliber of violations.

Mr. Hatch explained that the newly proposed Code Enforcement tools have been designed not to replace the current system, but to clarify and enhance it, particularly where safety issues exist with regard to criminal complaints, abatement, and repetitive nuisance code violations. The proposal introduces an ordinance providing guidelines for the use of an administrative citation designed to capture the attention of offenders and to impose an appropriate fine to be paid for code violations. With code enforcement concentrating on resolving violations, additional administrative citations may be issued with additional fines imposed for those unwilling to adhere to the courtesy notice and subsequent orders to clean up or repair the cited property. As a key part of the administrative citation process, those refusing to adhere to the citation will be given an opportunity to appeal the citation with a hearing officer who will provide an unbiased judgment and resolution regarding the problem. Hearings may be held throughout the year as determined by the number of appeals received and the detail of the cases to be heard.

At the request of Council Member Hansen, Mr. Hatch explained that hiring an unbiased hearing officer is well received and commonplace in other communities, but will be a new practice in Lodi. As in other cities, a fee of approximately \$500 per hearing would be paid to the hearing officer using fines collected through administrative citations equal to \$100 per citation. He noted that appeals may be scheduled so that the hearing officer will hear a consecutive number of appeals in one afternoon for the hearing fee charged.

City Attorney Schwabauer shared that while the City uses in-house staff to hear appeals regarding parking citations, case law indicates this process is frowned upon when dealing with administrative citation hearings for code enforcement. Deputy City Attorney, Janice Magdich, added that another option might be to enter into an agreement with other city attorneys in the area to act as hearing officers, noting that this type of activity has been effective when hearing appeals related to dangerous animals. She added that the City could begin with this type of quid pro quo agreement and then could move toward a compensation format should the volume of hearings increase.

In response to Council Member Mounce, Mr. Hatch shared that staff intends to establish a fee to be charged to partially cover costs associated with administrative citation appeals, in part to discourage receiving an appeal for every administrative citation. He stated that the system is set up so that when courtesy notices are met with voluntary compliance, there are no fees imposed or collected.

Community Improvement Manager, Joseph Wood, stated that citizens who cannot physically or financially respond to courtesy notices with regard to repairs and maintenance can receive assistance. He noted that over the years a network has been established of groups that are willing to provide assistance for those that do not have the means by which to comply with notices. Since these citizens are matched with groups to help them respond through voluntary compliance, there are no fees incurred.

At the request of Mayor Pro Tempore Johnson, Mr. Wood explained that the current process makes the levying and cost recovery of non-compliance fees difficult. The initial fee for non-compliance is \$100 and the second and subsequent fee is \$300 per assessment with the burden upon the City to justify imposing fees on a daily, weekly, or monthly basis. He stated that the new ordinance and updated language provides a real incentive for compliance because administrative citations are \$100 for the first citation, \$250 for the second citation, and \$500 for subsequent citations, and that fees may be imposed as often as daily. He added that, while the new program will allow staff to expedite and adapt the process when dealing with chronic, blatant, and more serious violations, the main purpose of code enforcement is to establish a comprehensive program to encourage compliance.

Community Development Director Hatch stated that some citizens may look forward to the appeal process if only for the opportunity to present their case to an unbiased hearing officer. He shared that the recommended administrative citation process is designed to focus on those citizens that need incentive to comply with established codes, and the process allows the City the ability to customize fines to the level of the violation. Additionally, Council may choose to establish small fines, e.g. \$35, for minor violations such as leaving out trash cans at the curb. He shared that if individuals do not pay citations after being ordered to do so as a result of the appeal process, the City could choose to attach the fees to utility bills or other mechanisms for payment collection.

Deputy City Attorney Magdich explained that other options are available to both parties following the appeal process through the filing of civil proceedings, an appeal to the Superior Court, or the City may wish to file criminal charges.

In response to Council Member Hansen, Mr. Wood reported that he and both Code Enforcement Officers have received the proper training and will have the authority to issue citations, adding that he will oversee each case before an administration citation is issued and throughout the process toward compliance.

Council Member Beckman stated that he would not be in favor of attaching administrative citation fees and non-compliance fees to utility bills for payment. Mr. Hatch clarified that this is an effective tool in other communities, but difficulties occur when the violator is not the responsible named on the utility account. He noted that this practice is not a mechanism that is part of the recommendation currently before Council.

Council Member Mounce commented that landlords and tenants should be considered jointly responsible for ensuring that properties are in compliance and asked if staff has looked at the possibility of issuing liens against property for citations and fees.

City Manager King responded that in each case Council would be required to conduct a hearing, review an accounting of costs incurred in enforcing the property, provide the tenant an opportunity to state their case, and then either dismiss or direct that a lien be assessed on the property through the County Assessor's office.

Deputy City Attorney Magdich stated that municipalities can adopt ordinances to place liens to recover abatement costs, assessment costs, fines, and collection, or may also consider filing a civil action to obtain a judgment from the court, which can be recorded as a lien against the property. While staff's proposal does not reflect these options, the Council and City do have additional tools available as a final means to recover costs.

Community Improvement Manager Wood stated that one current process, the Notice of Substandard Conditions and Abatement Action, allows for an official document to be recorded placing a lien against the property. Attached to the title, it notifies parties interested in the property that an outstanding condition exists, which prevents its sale or refinance through normal transaction, making it a very effective tool in resolving liens and recovering costs. He shared that the proposed code enforcement tools will enhance the existing system by helping staff to encourage those few citizens who would not willingly comply to do so while supporting the City's cost recovery for code enforcement.

PUBLIC COMMENTS:

- Myrna Wetzel commented that she has seen people ignore notices of abatement for buildings that are unsafe and that they will sneak back in to live in the structure and hide from code enforcement officers even after the power has been shut off.

Council Member Mounce stated that upon its inception in 1993, the Lodi Improvement Committee's (formerly East Side Improvement Committee) main point of focus was creating a means to enforce codes to address specific problems in the older areas of Lodi. She commended Mr. Wood and his team for doing a great job and for bringing forth an updated plan that will provide the necessary tools for a successful Code Enforcement program.

**C. COMMENTS BY THE PUBLIC ON NON-AGENDA ITEMS**

None.

**D. ADJOURNMENT**

No action was taken by the City Council. The meeting was adjourned at 7:56 a.m.

ATTEST:

Jacqueline L. Taylor  
Deputy City Clerk

# **Code Enforcement Tools**

## **Current**

- **Courtesy Notice**
  - **Initial notification for majority of zoning and nuisance violations.**
- **Notice of Violation**
  - **Zoning and Nuisance violations.**
- **Notice and Order**
  - **Housing & Dangerous Building violations.**
- **Non-Compliance Fees**
  - **\$100/\$300 – Cost Recovery**
- **Code Compliance Permit Fees**
  - **\$100 per hr.**
  - **Substandard Housing and Dangerous Building cases only.**
- **Misdemeanor/Infraction Citations**
  - **Fines levied through SJ Superior Court**
- **Criminal Complaints**
  - **Criminal action for misdemeanor violations**
- **Abatement Action**
- **Notice of Substandard Conditions & Abatement Action**
  - **Lien filed with County Recorder's Office**

## **Proposed**

- **Administrative Citation**
  - **Issued for non-compliance with Notice of Violation, Notice and Order.**
  - **\$100/\$250/\$500 (some jurisdictions authorize \$100/\$500/\$1000)**
- **Administrative Hearing**
  - **Provides appeal (due process) throughout enforcement procedure.**
  - **Admin Cite, Assessment of Non-Compliance Fees, Assessment of Costs**
- **Summary Abatement**
  - **Clearer authority and process for abatement of immediate hazards**
- **Civil Penalties**
  - **Used for more serious, flagrant and/or more egregious violations.**
  - **Penalties of up to \$1000/per day**

# Current Process

- **Initial Inspection**
- **Issue Notice of Violation/Notice and Order**
  - **Generated from office and issued to property owner.**
- **Initial Compliance Inspection**
  - **Voluntary compliance**
    - **Case Closed – No fines or assessments.**
  - **Non-Compliance**
    - **Issue Notice of Non-Compliance**
    - **Record Notice against property.**
    - **Schedule next Compliance Deadline**
      - **Usually 15-30 days**

**Or**

  - **Abate violations**
    - **Assess costs against property.**
    - **Currently an effective method.**
- **Second Compliance Inspection**
  - **Compliance**
    - **Case Closed – No fines or assessments.**
  - **Non-Compliance**
    - **Assess \$100 Non-Compliance Fee**
    - **Schedule next deadline for compliance and assessment of \$300**
    - **Could issue misdemeanor/infraction citation.**
      - **If contested, could be jury/court trial.**
      - **Time consuming – requires additional time and resources.**
- **Follow up Compliance Inspection**
  - **Compliance**
    - **Case closed with no further fines/assessments.**
    - **Lien not released until previous fines and assessments paid.**
  - **Non-Compliance**
    - **Assess \$300 Non-Compliance Fee for this and any subsequent non-compliance deadlines.**
    - **Could issue misdemeanor/infraction citation.**
      - **Same issues as above.**

# Proposed Process

- **Initial Inspection**
- **Issue Notice of Violation/Notice and Order**
  - *Notice of Violations issued in the field to Responsible Party*
    - *Owner, tenant, occupant.*
- **Initial Compliance Inspection**
  - **Voluntary compliance**
    - **Case Closed – No fines or assessments.**
  - **Non-Compliance**
    - *Issue Administrative Citation - \$100 fine*
    - **Assess \$100 Non-Compliance Fee**
    - **Schedule next Compliance Deadline**
      - *1 Day – 1 Week*
    - **Record Notice against property.**
      - **Assess \$75 Admin cost.**
    - **Or... If violations can be abated...**
      - **Abate violations**
      - **Assess costs against property.**
      - **Lien not released until previous fines and assessments paid.**
- **Second Compliance Inspection**
  - **Compliance**
    - **Case Closed – No further fines or assessments.**
  - **Non-Compliance**
    - *Issue Administrative Citation - \$250 fine*
    - **Assess \$300 Non-Compliance Fee**
    - **Schedule next deadline for compliance.**
- **Follow up Compliance Inspection**
  - **Compliance**
    - **Case closed with no further fines/assessments.**
    - **Lien not released until previous fines and assessments paid.**
  - **Non-Compliance**
    - *Issue Administrative Citation - \$500 fine*
    - **Assess \$300 Non-Compliance Fee**
    - **Consider additional measures**
      - **Misdemeanor citation**
      - **Criminal Complaint**
      - *Notice and Order of Civil Penalties*

# Administrative Citation

# DRAFT

CITY OF LODI  
Community Development Department  
221 W. Pine Street  
Lodi, CA 95240  
(209)333-6823

Administrative Citation # \_\_\_\_\_

☐ FIRST ADMIN CITE -\$100    ☐ SECOND ADMIN CITE -\$250    ☐ THIRD ADMIN CITE -\$500  
☐ INITIAL NON-COMPLIANCE FEE -\$100    ☐ SECOND NON-COMPLIANCE FEE -\$300

**Violations indicated below must be corrected by \_\_\_\_\_**

Correcting the violation(s) will allow you to avoid possible penalties of \$100, \$250, or \$500 dollars, and the assessment of \$100/\$300 Non-Compliance fees.

VIOLATION ADDRESS: \_\_\_\_\_

PARCEL # \_\_\_\_\_

PERSON CITED:    ☐ Owner    ☐ Tenant ☐ Other

LAST NAME: \_\_\_\_\_

FIRST: \_\_\_\_\_

MIDDLE: \_\_\_\_\_

MAILING ADDRESS \_\_\_\_\_

DATE OF BIRTH: \_\_\_\_\_

LICENSE/IDENTIFICATION NUMBER: \_\_\_\_\_

STATE: \_\_\_\_\_

	Municipal Code Section Violated	Violation/Correction description:
	LMC 9.20	Garage sale violation
	LMC 9.24	Noise Ordinance violation
	LMC 10.56	Vehicle Abatement violation
	LMC 12.04	Encroachment violations
	LMC 15.04	Building Code violation
	LMC 15.24	Housing Code violation
	LMC 15.28	Dangerous Building Code violation
	LMC 15.30	Property Maintenance Ordinance violation
	LMC 17.87	Zoning Ordinance violation

Comments: \_\_\_\_\_

(PRINT AND SIGN):

Name of Issuing Officer & ID No. \_\_\_\_\_

Date: \_\_\_\_\_

Time: \_\_\_\_\_

Case Number: \_\_\_\_\_

Phone Number: \_\_\_\_\_

Signature of Person Cited: \_\_\_\_\_

Phone Number: \_\_\_\_\_

Date of Birth: \_\_\_\_\_

Drivers License Number: \_\_\_\_\_

***Signing of the Citation is not an admission of guilt, it only acknowledges receipt. Citation is valid with or without a signature.***

CC: \_\_\_\_\_

Page 1 of \_\_\_\_\_

**READ REVERSE SIDE FOR RIGHTS OF APPEAL AND PAYMENT INSTRUCTIONS**

## Administrative Citations

City of Lodi Municipal Code, Chapter 1.10, provides for the issuance of administrative citations for Municipal Code violations, fines are \$100 for the first Admin Citation, \$250 for the second Admin Citation and \$500 for the third and any subsequent Admin Citation, as indicated on the front of this citation. Each section violated is a separate offense and may carry an independent fine. Likewise, each day any violation exists is a separate offense.

Furthermore, we are authorized to assess Non-Compliance Fees of \$100 for the first and \$300 for the second and all subsequent assessments to cover any and all costs related to the investigation, enforcement and abatement of violations upon the premises.

### **Rights of Appeal**

You have the right to appeal this administrative citation within 10 business days from the date the citation was issued. If the citation was mailed, the appeal must be made within 10 business days from the date the citation was mailed. An appeal must be made in writing to the City of Lodi, Community Development Department, 221 W. Pine Street, Lodi, California 95240. An appeal will result in an administrative hearing. An Appeal form may be obtained at the Community Improvement Division.

Failure of any person to properly file a written appeal within 10 business days shall constitute a waiver of his or her right to an administrative hearing; an adjudication of the administrative citation or any part of it, and the total amount of the fine.

### **How to Pay Fine**

The amount of the fine is indicated on the front of this administrative citation. ***Payment may be made in person or by mail to City of Lodi, Finance Department, 300 W. Pine Street, Lodi, CA 95240.*** Payment should be made by cash, personal check, cashier's check or money order. Be sure to write the citation number on your check or money order, made payable to the City of Lodi and enclose a copy of the citation. **(Do not mail cash)**

### **Consequences of Failure to Pay**

If you are the property owner and you fail to pay the fine assessed by the administrative citation within the time specified, it may result in lien assessments in the amount of the fine(s), plus an additional cost for Administrative processing. The City has the authority to collect all costs associated with the filing of such actions. Alternatively, the City may collect the fine in a civil or small claims court action.

### **Consequences of Failure to Correct Violations**

There are numerous enforcement options that can be used to encourage the correction of violations. These options include, but are not limited to, civil penalties, abatement, criminal prosecution, civil litigation, recording the violation with the County Recorder and forfeiture of certain State tax benefits for substandard residential rental property. Any of these options or others may be used if the administrative citation(s) do not achieve compliance.

If you need further clarification, please call the Community Development Department – Community Improvement Division at 333-6823.